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IN THE COURT OF COMMON PLEAS
CIVIL DIVISION
ADAMS COUNTY, OHIO

SHAWN D. COOLEY, et al.

PLAINTIFFS,

VS.

JOSEPH EDGAR FOREMAN, et al.

DEFENDANTS,

* CASE NO. CVH 2023-0069

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**ORAL HEARING
REQUESTED**

**DEFENDANT JOSEPH EDGAR FOREMAN RESPONSE TO THE PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO DEFENDANT'S
COUNTERCLAIMS**

Comes now the Defendant, Joseph E. Foreman, by and through his Counsel and prays that this honorable court will issue a judgment denying the motion of the Plaintiff's, as there exists material facts in relation to the case which must be presented to a jury for consideration and verdict.

A memorandum in support has been attached and is incorporated hereto by reference.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

The case at hand can best be described as a SLAPP case brought by the Law Enforcement Officers of the Adams County Sheriff's Office against an Adams County Citizen who has made statements via his music, associated posts and promotions about the search of his residence, local public officials, and the Officers who took part in the search. In fact, the entire series of events can be described as unprofessional chaos instigated by Adams County Sherriff's Officers while envisioning a scene from the movie 50 Shades of Gray.

The story of the search of Mr. Foreman's residence on 8/21/2022 started a long time before that date. Some time prior to the evening of 8/21/2022 Deputy Shawn Cooley started an investigation into a domestic and/or assault case in which an unknown person tells him that a lady living in Winchester, Ohio on Heather Holly Lane has a lot of marijuana. (Newland Depo. 25:18-26:13) Not wanting to have a formal conversation with the suspect about the marijuana, Deputy Shawn Cooley and Sergent Mike Estep go to her residence (prior to 2:00 p.m. on 8/21/2022) to discuss an incident where she was a victim of arson when her car was burnt. (Newland Depo. 26:2-14) Strangely, Deputies Shawn Cooley and Mike Estep never articulated how they had knowledge that alleged marijuana might involve a person known as "Afroman" prior to the interviews with the Lady/Suspect on Heather Holly Lane.

Afroman is the stage name for Mr. Joseph Foreman, a rapper who was famous for his song, "Because I Got High," which hit the top 10 in the early 2000s. Mr. Foreman is well known across the United States and Canada for his music and is easily recognizable when seen in public. When thinking of American rappers Afroman is often included in the same list as Snoop Dog, Ice Cube, The Notorious B.I.G., and Ice-T just to name a few. Mr. Foreman and his family are residents of Adams County, Ohio.

Before speaking with the Lady/suspect¹, Mike Estep and Shawn Cooley called the off-duty Detective Brian Newland to see if he wanted to assist with the investigation due to his work on narcotics and drug trafficking. (Newland Depo. 24:18-25:7) This phone call was made between 1:00-2:00 p.m.² on 8/21/2022. (Newland Depo. 25:18-21) Detective Newland agreed and went with Deputies Shawn Cooley and Mike Estep to Heather Holly Lane. Id.

Deputy Shawn Cooley, Detective Newland and Sergeant Mike Estep meet at the residence on Heather Holly Lane and made contact with the Lady/suspect. From the testimony of Newland, it would appear that the conversation started outside of the Lady's residence. (Newland Depo. 26:2-17) Newland proceeded to ask her about the alleged marijuana Shawn Cooley and Mike Estep had been told about. She invited the officers inside the residence and then proceeded to indicate that the marijuana was located in a bedroom. (Newland Depo. 26:10-27:13) A search was conducted, 2,000+ grams of weed was found in the bedroom. (Newland Depo. 26:2-14 and Estep Depo. 13:7-14:12) The possession of 2,000+ grams of marijuana was a felony in the State of Ohio at the time of the search.

Following the search, the officers ask the Lady to return to the police station to give a statement. With unknown reasoning, they then allow a felon who has been caught red handed to drive her own car to the police station. (Newland Depo. 27:16-20) However, this may be explained by Detective Newland proceeding not to the police station but to do a drive by of the residence of Mr. Foreman, which is Mr. Newland indicted was approximately 5 miles out of his way. (Newland Depo. 67:3-9) Newland observes no cars at the house or activity and then proceeds to the police

¹ This person is a female who will be later identified as CI #1.

² Note that the time is likely 2:00 pm that Mr. Newland meet up with Estep and S. Cooley. Mr. Newland articulated that he was off duty when he got the call. Assuming that he was at his home, in Manchester, and had not been planning to go into work that day, it would have taken him time to get his badge, gun and items needed for on duty work. Further, he cannot recall if he went to his office prior to meeting the officers at Heather Holly Lane. Thus, the assumption of 2:00 pm would allow him to have the call after 1:00 pm and get to Heather Holly Lane by 2:00 pm.

station to interview the Lady.

Once at the station Detective Newland conducts an interview of the Lady lasting approximately 45 minutes. (Newland Depo. 34: 6-16) No audio recording of this interview was secured due to a failure of the recording equipment. Id. Following this, Detective Newland proceeded to start drafting a search warrant based upon his interview notes of the Lady. Id. However, prior to starting work on the search warrant, Detective Newland completed the Confidential Informant Packet and made the Lady Felon a Confidential Informant (Hereafter called a CI) (Newland Depo. 60:9-62:12)

What Newland learned from his interview with the CI was that she claimed to have known Afroman for ~10 years and been in a physical relationship with him. (Exhibit A: Search Warrant 2022-SW-#23, numbered paragraph 2.) Further, she claimed to have traveled around the county with Mr. Foreman and seen him legally buy marijuana at dispensaries across the country. Id. From there the CI starts to describe a scene from 50 Shades of Gray. She claimed that her ex-husband/husband was paid to drive a possible Hispanic woman, (Joe), from the Southern United States to Adams County, Ohio.³ (Exhibit A: Search Warrant 2022-SW-#23, numbered paragraph 2.) No time frame was given for this nor was any mention that the lady was transported against her will. Yet, the CI goes on to talk about how women were being held in a basement dungeon. Id. Wherein the women are required to urinate and defecate into a bucket. Id. The CI also described sex acts that she participated in which are known as watersports and/or golden showers.⁴ (Exhibit

³ This is the strangest part of the case that is unspoken. Which is if Newland believed that there were women being kidnapped and that "Joe" was a kidnap victim; why would he not have arrested the CI and explored this in depth? Or at least have gone after the CI ex-husband? Afterall, as kidnapping victims these women would have been transported against her will and the CI would have put her ex-husband as a suspect in a host of felonies, including kidnapping, human trafficking just to name a few. Yet, she was not arrested nor charged out of the incident, nor was anything done to her ex-husband who she said transported the women. Newland in his depo said that no plea deal was discussed with the Adams County Prosecutor in relation to the CI or her ex-husband. (Newland Depo. 62:13-23)

⁴ When looking at this through the Lense of the Movie 50 Shades of Gray, women can attest that the things being described could be consensual sexual acts. Afterall, the CI never indicated that she was forced into sexual acts. Thus, the follow to even get from a 50 Shades of Gray sex scene to women being forced is missing. A key part.

A, Search Warrant 2022-SW-#23, numbered paragraph 6). The CI even articulated that as a motive for giving a false police statement against Afroman.⁵

When Detective Newland sat down to start working on the search warrant following his interview of the CI he learned that the audio of his interview with the CI had not been recorded. (Newland Depo. 34: 6-16) Rather than following best practices and going into re-interview her Newland asked two officers to aid him, Deputies Mike Estep and Shawn Cooley, by reinterviewing her while he drafted the search warrant from his notes. (Newland Dep. 34:8-35:2; 38:5- 12; S. Cooley Dep. 35:6-15) The issue for Newland is that he did not want the second interview to take as long as the first, so he gave prepared questions for Estep and Shawn Cooley to ask the CI while being recorded. (Shawn Cooley Depo. 46:1-24) The second interview brings strange facts to light indicating further that the CI was lying.

Deputies Estep and Shawn Cooley interviewed the CI the second time and verified prior to starting the interview that the audio system was working. (Shawn Cooley Depo. 35: 6-15) The CI indicated that a women "Joe" from the Southern United States and that she was kept in a bedroom off the kitchen area.⁶ (Shawn Cooley Depo 57:20-59:9) Stranger still is that the CI admitted that she had stolen the weed⁷ from Afroman due to a strange scenario in relation to her car. Id. Further, Shawn Cooley articulated that she never said anything about a basement to him. (Shawn Cooley Depo 61:16-62:1) He also believed that Mr. Foreman was holding a juvenile in the dungeon; yet Shawn Cooley cannot identify where he learned that info from. (Shawn Cooley Depo 63:19-21). This is supported by Estep who also said the CI said nothing about the basement. (Mike Estep Depo 21:21-24) Further, Estep recalled that the CI told them that a female (age unknown) was

⁵ The CI was Tasha Chamblin the same person named as the subject of the video discussed in the search warrant.

⁶ No mention is made of how she knew "Joe" or how she would have been brought to Mr. Foreman's home. In fact the name is no longer given.

⁷ Strangely for a CI who just admitted to felony theft and no officer blinks nor thinks that it should have been in the search warrant. Afterall, she cannot be holding weed for Afroman if she stole it from him.

being held against her will in a cage in a bedroom. (Mike Estep Depo. 21:1-10) The second interview was conducted to make sure all the elements in the search warrant were covered and that the officers had knowledge to support the search warrant. (Mike Estep Depo 22:19-25) Yet with knowledge comes responsibility.

With the second interview concluded Newland continues to draft the search warrant. While finishing up the search warrant, he listens to the audio of the second interview. (Newland Depo 38:17-22) Strangely Newland fails in his responsibility because he failed to include anything he would have learned from listening to the second interview in the search warrant. A copy of the search warrant is attached hereto as Exhibit A.

Once the warrant is typed Newland hands it to Deputies Mike Estep and Shawn Cooley to review. (Estep Depo 11:25-12:14; Shawn Cooley Depo 24:17-25:3) Mr. Estep reviewed the warrant and stated that he thought it was an "amalgamation of what everybody knew at the time from her." (Mike Estep Depo 23:1-4) When things were read that he did not hear Estep assumed that Newland was told those things, even if those things did not match what she had just told him.⁸ (Mike Estep Depo 23:5-9) Shawn Cooley was worse. Shawn Cooley was presented with the search warrant by Newland and asked to proof read it. (Shawn Cooley Depo 24:11-25:6) Shawn Cooley admitted that he had done a lot of search warrants prior to his retirement. Id. Yet even hearing things that contradict the facts as set forth in the warrant he made no changes. Id. Multiple interviews back-to-back with conflicting information, yet no conflicting information was contained in the search warrant. Only the items desired by Newland and that would paint the words of the CI in the most favorable light were included. No inclusion was made that she changed her

⁸ This is the strangest question of all. If a CI must have an indicia of reliability, then the fact that her story changed and details changed (such as the age of the person, the location of storage areas, and the location of the dungeon) any officer would follow up to figure out why the story had changed. Nothing such as that was done in this case. It is almost as if the Officers believed that no felon would lie to them.

story between interviews, nor that she had admitted that she lied to the officers at Heather Holly Lane when she told them she was holding the weed for Afroman. She was not holding anything, she said she stole it. This is information that should have at least caused the Officers to slow walk the process. Yet, due to a desire for glory to arrest a National Celebrity or laziness, the warrant had no changes made to it to reflect what was discussed in the second interview.

Detective Newland, with search warrant in hand, made his way to the small efficiency apartment in which the elected County Prosecutor at the time, David Kelly, claimed residence in West Union, Adams County, Ohio.⁹ (Newland Depo 59:1-7) Newland claims that Prosecutor David Kelly reviewed the search warrant and was ok with it. Id. With David Kelly's blessing, Newland proceeded to Judge Roy Gabbert, Jr., the elected judge for the part-time Adams County Court. Id. Newland answers a few questions which Newland does not recall, and Roy Gabbert signs the search warrant at 6:55 p.m. on 8/21/2022. (See exhibit A)

Things gained an air of urgency as Newland wanted the search warrant to be executed that very day. Only two officers were on duty that day for the whole county as it was Sunday. (Newland Depo 70:11-13) To have enough people to enter the Foreman house officers had to be called in. (Newland Depo 70:5-18) Overall, at least 10 officers were called in to help with the search. It should be noted that all the officers cannot agree on how many officers were at the scene, including the boss of the operation, Brian Newland.^{10 11} A strange problem to have when you are seeking

⁹ Strangely this apartment is also the current residence of the current elected Adams County Prosecutor Aaron Haslem.

¹⁰ Newland said there was "ten people maybe, I do not recall for sure." (Newland Depo 73:11-15), thus no party knows how many officers were in the search.

¹¹ This may have less to do with memory and more with the fact that the idea of suing Mr. Foreman has not been a popular idea in Adams County as many citizens and news outlets are noting that the lawsuit has caused the issues the officers complain of. Sort of like the Barbra Streisand Effect. Thus, the memory of the officers may be out of a protection/shielding of their fellow officers. Even Mr. Newland testified he was told to let it go by the Sheriff Kermit Howard. Shawn Grooms thinks that his divorce from his wife was caused by the lawsuit, not his years of affairs (especially his current one that was on-going at the time of his divorce), because she told him to leave it alone and not get involved. This is strongly supported by the deposition of Lisa Phillips who indicted that there should be other people who should be in this lawsuit but she is "not putting anybody else in the middle" of this. (Phillips Depo

evidence of crime and would be looking at building a criminal case that must be presented to a jury, especially if the case involves the kidnapping of a minor.

Officers Justin Cooley, Lisa Phillips, Randy Walters, Shawn Grooms, David Russel, Kenny Dick and at least two others were called in. Shawn Cooley stayed past the end of shift at 6:00 p.m. to aid in the search warrant execution. (Shawn Cooley Depo 25:18-26:18) Mike Estep was on duty at that time. When they were ready the officers met at the Sheriff's office and planning started. Mike Estep and Brian Newland planned the execution of the search warrant. (Estep Depo 25:21-26:7) The planning had two phases; the first was to discuss what was to be located in the search and the second phase was to determine how to enter the house. (Newland Depo 70:6-25)

The first phase of the planning for the execution of the search warrant was to determine what is being searched for. (Newland Depo 70:6-25) Even at this stage things begin breaking down with the officers being unclear as to what they were looking for. The search warrant detailed that the Officers were to be searching for:

Items of evidence, including but not limited to unknown quantity of marijuana, marijuana derivatives, any and all other drugs of abuse, drug paraphernalia including Scales, packaging materials, and paraphernalia used for sale and administration of said drugs, money, obtained from the sale of illegal drugs, documentation regarding the sale of illegal drugs as well as weapons used for the protection of the above. Exhibit A.

According the search warrant the officers were looking for drugs, paraphernalia, etc. The only mention of looking for a person or evidence of a person being held against their will is stated where they see the violations which mentions Kidnapping and cites the relevant ORC statute. Exhibit A. Thus, going by the face of the warrant the officers were to look for marijuana and the materials associated with it. No mention was made of Narcotics by the CI, nor anywhere in the search warrant. No mention is made of searching for a kidnapping victim nor that they will search for a

dungeon basement which, presumably, were the reasons for acting in haste. The search warrant is clear on what the officers were looking for. Yet what did the Plaintiff's think they were looking for? This question should not have to be asked because all law enforcement would know that you cannot exceed the scope of a search warrant.

The details paint a surprising picture. Detective Newland typed the search warrant and its stated intent was to search for marijuana. Yet in deposition Detective Newland stated that we was also looking for kidnapping victims. (Newland Depo 64:13-22) Shawn Cooley stated he was searching for marijuana, other drugs, documentation of drug sales or buys, large amounts of money, and a juvenile who was being held against her will. (Shawn Cooley Depo. 67:18-68:2, 62:19-63:3) Mike Estep was searching for human trafficking victims or a hostage being held in a cage. (Estep Depo 27:22-25, 28:1-8, 29:7-22) Justin Cooley was looking for marijuana and a juvenile at the residence. (Justin Cooley Depo 29:17-25, 31:1-6) Shawn Grooms was looking for a kidnapping victim and narcotics. (Grooms Depo 18:24-19:7) Lisa Phillips was looking for a kidnapping victim, narcotics, and media related to human trafficking. (Phillips Depo 19:21-25, 20:1-4, 25:4-10) Randy Walters was searching for marijuana and human trafficking of some type. (Walters Depo 29:19-23) The glaring issues that arose from depositions was that the officers were looking for things outside the scope of the search warrant. This is also supported by the testimony of Mike Estep who indicated in his long career as a law enforcement officer, he has only seen a few marijuana search warrants. (Estep Depo 20:15-20) This clearly indicates that search warrants for marijuana was not common and most likely a pre-text in the case at hand to gain entry into the home of Mr. Foreman.

Once the officers were fully confused about what they were to search for, the second stage of the planning started. This stage was to determine how the officers would gain entry to the residence. (Newland Depo 70:6-71:8) The officers, with a plan laid out, left the Sherriff's Office

and headed to the residence of Mr. Foreman. It is not verified by the officers, yet it can be assumed, that the CI was released after her second statement and was not kept at the station for follow up after the search.

From here the officers descended upon the residence of Mr. Foreman with automatic assault rifles, riot shields, body armor, and several police cars. (see the body cam of Newland and Phillips, 8/21/2022 at ~20:00 hours) From the time stamp on the few body cams that were worn in the search, the Officers arrived at Mr. Foreman's residence at approximately 8:00 pm. Detective Newlands return on the search warrant notes that the warrant was executed at 8:11 pm (Exhibit B, Return on search warrant) The Officers arrive and take up positions around the home. Newland looks at the front door and looks through the window. (Newland Depo 74:19-75:9) Newland sees the door is secured and that a white couch may be blocking the door. Id. He then leaves the front door going to side of residence to enter through the mudroom/guard shack area. Id.

Strangely, in contradiction to the deposition testimony of the man running the show¹², the officers attempt to breach two locations on the home, not one as previously reported. Newland and another officer (who appears to be Justin Cooley from the body cam of Brian Newland) appear to go to the front door of the residence, where Newland attempts to kick in the door; much like you would see in the movies.^{13, 14} (See body cam of Newland for 8/21/2022 time stamp ~20:16) Yet, in real life the doors are built better than most human feet as the movie "Last Action Hero"¹⁵

¹² Brian Newland was in charge of the search per his own words. (Newland Depo 71:12-23)

¹³ This is another point where the story breaks down. If you were worried about hostages or kidnapping victims and being that Mike Estep said situations could change in moments, why try to break the door down with your foot? Afterall, you are doing nothing but letting anyone inside know what is going on and increasing the possibility of danger when the officers do enter moments later. This action does make sense if you know that no one is at the residence and you are not looking for kidnapping victims.

¹⁴ Questions also are raised because Mr. Newland in his deposition said that the couch appeared to be blocking the front door. If that was the case, why attempt to kick in the door?

¹⁵ Last Action Hero was comedy movie in which cops (or the super cop) is made fun of for the outrageous things that you see in police movies like never reloading, always hitting the bad guy, never being injured no matter how bad the person appears to be injured, and also the ability to kick open any door with one hit of your foot. The Movie makes fun of these actions by bringing the super cop into the real world and letting him learn those things are all

showed audiences. Newland and the other officer could not make entry and proceeded to the side of the residence. Id. At this point the outer door to the mud room (which the officers referred to as "guard shack") had been forced open. (Body cam of Newland for 8/21/2022 time stamp ~20:17) (Newland Depo 75:2-18) From here the Officers learn that battering rams are designed to open locked doors. Correct procedure is to hit the door in the area where it does the least amount of damage to the door frame and will open the door with the minimum number of strikes. In hostage situations where breaching speed is critical for surprise, the door will be stuck in its weakest place. In the breach from the mudroom into the home properly, the officers struck on the door hinge side of the door. Striking this area resulted in the door receiving a greater number of strikes and therefore damage to the whole frame. The choice to ignore procedure led the door and door frame to receiving maximum damage. Once breached the officers spread out to search and secure the residence. No people were found in the residence and the home was secured.

Once secure the search of the residence begins. The Officers search the outbuildings finding nothing. In fact, only minor misdemeanor levels of marijuana were found. No dungeon was discovered. No cages were found. No sexy women were found. Yet, once inside the officers did an extensive job of searching. Each looking for what they wanted to look for. Not what was in the search warrant.

Officers searched the CD music collection of Mr. Foreman, searched his clothing, and they even removed his security system from the wall to be examined for evidence. Bodycam and security footage shows Randy Walters taking a picture so school login information for Mr. Foreman's minor child. Officers were so thorough in the search they even looked behind the couch. One might ask why the CD collection was searched for pot? Why was the security system searched

for pot? In fact, the whole search was turned into a humorous song by Mr. Foreman titled "Will You Help Me Fix My Door?"¹⁶ Even Mr. Foreman uses comedy and a catchy rhyme to ask why the officers were searching outside the scope of the search warrant.

The search was completed and the return on the search warrant was completed by Mr. Newland. A copy of said return as been attached and marked Exhibit B. In the return, Newland noted that he collected \$4,390.00 in cash from a jacket pocket and \$641.00 in cash located on shelf in Mr. Foreman's office. Exhibit B. In addition, Newland reported that other pot items were found. According to Estep no significant amount of pot was discovered as the CI claimed they would. (Estep Depo 31:24-32:4, discussing the mason jar that had very little pot in it) From the search it can be seen that the CI was flagrantly lying her ass off and, it has become clear, even lied about the basement as the house does not have a basement.¹⁷ A fact that can be verified by examining the Adams County Auditor website which gives a layout and basic information about the home.

With the search complete, the officers dispersed with some going home and some going back to patrol. As 8/21/2022 was a Sunday most officers were off duty. Being the weekend Newland took the evidence items, including the cash, to the police station in unsealed evidence bags. (Newland Depo 91:22-93:1) Newland put it in a secured office not sealing the evidence bags prior to leaving and heading to his home. Id. Not what anyone would call good police work, leaving evidence bags unsealed when leaving a crime scene.

Mr. Newland came in the next day, Monday 8/22/2022, and looked over everything and completed some paperwork. (Newland Depo 91:22-93:1) The return on the warrant was filed in the afternoon of Tuesday, 8/23/2022. Exhibit B. Sometime either, Monday or Tuesday Newland was informed that the money was going to be returned. (Newland Depo 94:6-95:5 and 96:17-97:4)

¹⁶ <https://youtu.be/0bNy7XO-SCI?si=QjbgInbnvjreXQwE>

¹⁷ Even this small fact has caused a laughable response in relation to the execution of the search warrant as Mike Estep testified he glanced into the non-existent basement during his search of the home.

After hearing that the money was to be returned to Mr. Foreman, Newland stopped all work on even recounting the money or sealing the evidence bag. *Id.* Further Mr. Newland was told that no charges were going to be brought by the Prosecutor's office.¹⁸

In November, Mr. Foreman was permitted to retrieve the cash being held by the Adams County Sheriff's Office. Channel 19, Fox News was present for the retrieval and counting of the cash.¹⁹ Strangely, the evidence bags were sealed. *Id.* The evidence tech cut them open, and the cash was counted by Mr. Foreman, the evidence tech, and Mr. Foreman's attorney. *Id.* Upon counting the sealed evidence bags of money it was found that \$390.00 was missing. The return on the search warrant detailed that \$5,031.00 was recovered in the search of Mr. Forman's residence yet less than that amount was returned to Mr. Foreman. Exhibit B.

LAW IN RELATION TO SUMMARY JUDGMENT

Ohio Civil Rule 56(C) states:

Summary judgment shall be rendered forthwith if the *pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact* and that the moving party is entitled to judgment as a matter of law. Ohio Civ. R. 56(C) (Emphasis added).

Thus, Ohio Civil Rule 56(C) forces the court to only consider evidence which the parties would present at trial. No other evidence than that which is presented by the parties through pleadings, deposition, answers to interrogatories, written admissions, affidavits, written stipulations of fact and transcripts can be used by the court to rule on a Motion for Summary Judgement. This places the party filing a Motion for Summary Judgement under a duty to include, with their supporting

¹⁸ Strange considering the CI had been indicating kidnapping and the officers were worried about human trafficking.

¹⁹ This is a link to the webpage maintained by Fox 19 News and the videos they took of the counting of the money that day.

<https://www.fox19.com/2023/02/16/investigation-into-afromans-alleged-missing-money-concludes/>

memorandum, evidence which will satisfy Rule 56(C). Thus, Ohio Civil Rules require that a party answer a Motion for Summary Judgement with evidence which will support their claims.

LEGAL ANALYSIS

After a comedy of errors the Plaintiffs still seek to hide behind claims of immunity. It is not in debate that the Plaintiffs were acting in their official capacity as Adams County, Ohio Sherriff's Deputies.

The concept of immunity comes down to the American Legal System from the time of Kings and Queens. History has often held that "the King can do no wrong." Yet the United States is not a county of Kings and Queens; but of citizens with rights guaranteed by the Constitution of the United States and the Constitution and laws of their respective states. It goes without saying that no one in the United States has absolute immunity. There exist only forms of immunity each with its own limitations.

QUALIFIED IMMUNITY

Qualified immunity protects governmental officials "from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." Pearson v. Callahan, 555 U.S. 223, 231, 129 S. Ct. 808, 172 L. Ed. 2d 565 (2009) (quoting Harlow v. Fitzgerald, 457 U.S. 800, 818, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982)). Qualified immunity is not merely a defense against liability; it is a defense against suit. Once raised, the plaintiff bears the burden of showing that the defendant is not entitled to qualified immunity. Gavitt v. Born, 835 F.3d 623, 640 (6th Cir. 2016) (citing Johnson v. Moseley, 790 F.3d 649, 653 (6th Cir. 2015)). Law enforcement officers receive qualified immunity from § 1983 liability if "(1) they did not violate any constitutional guarantees or (2) the guarantee, even if violated, was not clearly established at the time of the alleged misconduct." Bailey v. City of Ann Arbor, 860 F.3d 382, 385 (6th Cir. 2017). Qualified immunity

provides "ample room for mistaken judgments by *protecting all but the plainly incompetent or those who knowingly violate the law.*" Gavitt, 835 F.3d at 640 (quoting Malley v. Briggs, 475 U.S. 335, 343, 106 S. Ct. 1092, 89 L. Ed. 2d 271 (1986)).

When attempting to determine if an officer violates an individual's Fourth Amendment rights depends on if their actions were objectively reasonable. Ciminillo v. Streicher, 434 F.3d 461, 466 (6th Cir. 2006). In search and seizure cases, when officers rely on a judicially secured warrant, they are generally entitled to qualified immunity. Hale v. Kart, 396 F.3d 721, 725 (6th Cir. 2005). This is because "the fact that a neutral magistrate has issued a warrant is the clearest indication that the officers acted in an objectively reasonable manner" Messerschmidt v. Millender, 565 U.S. 535, 546, 132 S. Ct. 1235, 182 L. Ed. 2d 47 (2012). A plaintiff may overcome this presumption, however, by showing that "the warrant is so lacking in indicia of probable cause, that official belief in the existence of probable cause is unreasonable." Yancey v. Carroll Cty., 876 F.2d 1238, 1243 (6th Cir. 1989) (citing Malley, 475 U.S. 335, 106 S. Ct. 1092, 89 L. Ed. 2d 271). Thus, officers cannot rely on a warrant if "that officer knowingly makes false statements and omissions to the judge such that but for these falsities the judge would not have issued the warrant." Id. In determining whether defendants are entitled to qualified immunity, the court must view the evidence in the light most favorable to the injured party, Webb v. United States, 789 F.3d 647, 659 (6th Cir. 2015), but consider "only the facts that were knowable" to the defendants," King v. Harwood, 852 F.3d 568, 582 (6th Cir. 2017) (quoting White v. Pauly, 137 S. Ct. 548, 551, 196 L. Ed. 2d 463 (2017) (per curiam)).

THE FOURTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA

Judge Roy Gabbert Jr. is often credited with saying that the United States Constitution is the blanket of freedom that protects us all and that the courts of the United States are America

having a conversation with itself. I wholeheartedly agree with the thoughts and stances of Judge Gabbert. The Fourth Amendment of the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

Thus, to correct the problems of Mad King George and his use of unlawful search warrants, the Fourth Amendment is a restraint upon the American Government (at all levels) to protect the American people. Yet, like all things in the law, it is not that easy as one must also look to State Law Immunity.

IMMUNITY UNDER OHIO STATE LAW – O.R.C. 2744.02 AND O.R.C. 2744.03

Ohio law generally provides political subdivisions and their employees with immunity from lawsuits and liability. R.C. 2744.02(A)(1) and 2744.03(A)(6). That immunity is not absolute. In fact, Ohio law permits plaintiffs to sue and hold liable employees of a political subdivision if the employees' acts or omissions in the course and scope of their employment were wanton or reckless. R.C. 2744.03(A)(6)(b).

Ohio Revised Code section 2744.02 provides immunity to political subdivisions for governmental agencies and officials and their actions. This immunity is not absolute, and the statute provides for five exceptions under which political subdivisions do not get the benefit of immunity. These five exceptions are; (1) negligent operation of a motor vehicle, (2) political subdivisions are liable for injury, death, or loss to person or property caused by the negligent performance of acts by their employees with respect to proprietary functions of the political subdivisions, (3) municipalities failure to keep roads and sidewalks free from nuisances, (4) injury or loss that occurs within or on buildings used for governmental functions and is caused by negligence, and (5) any other situation in which liability is expressly imposed by the Ohio Revised

Code. O.R.C. Section 2744.02(B). The Defendant to prevail and proceed with a suit need only show that one of the exceptions of 2744.02 applies. Digiorgio v. City of Cleveland, 2011-Ohio-5878, ¶ 20-27 (Ct. App.). Thus, before determining if a police officer/governmental officer has immunity one must look at the circumstances around the event in question.

DAMAGE TO PERSONAL PROPERTY UNDER OHIO LAW – ORC 2935.12

The Ohio legislature has addressed the issue of how much damage can be done by Officers executing a search warrant in what has been called the knock-announce principle. Ohio Revised Code Section 2935.12 states that:

When making an arrest or executing an arrest warrant or summons in lieu of an arrest warrant, or when executing a search warrant, the peace officer, law enforcement officer, or other authorized individual making the arrest or **executing the warrant** or summons **may break down an outer or inner door or window of a dwelling house** or other building, if, **after notice of his intention** to make the arrest or to **execute the warrant** or summons, **he is refused admittance**, but the law enforcement officer or other authorized individual executing a search warrant shall not enter a house or building not described in the warrant. O.R.C. 2935.12(A).

According to the statute the officer must knock on the door and make an announcement that he intends to enter the residence. Failure to do that brings up additional questions.

The knock-and-announce principle is much older than the exclusionary rule, finding its roots in the ancient common law. Wilson v. Arkansas, 514 U.S. 927, 932, 115 S.Ct. 1914, 131 L.Ed.2d 976 (1995). The United States Supreme Court has explained that by virtue of its place in the common law before and during the founding era, the knock-and-announce principle "is an element of the reasonableness inquiry under the Fourth Amendment." Id. at 934. In Ohio, the principle codified in R.C. 2935.12. State v. Oliver, 112 Ohio St.3d 447, 2007-Ohio-372, 860 N.E.2d 1002, ¶ 9. The principle requires "police officers executing a search warrant at a residence to first knock on the door, announce their purpose, and identify themselves before they forcibly enter the home." Id. at ¶ 9. Ohio's codified version of the knock-and-announce principle provides

the same basic rule: police executing a warrant must give notice of their presence and purpose and may enter a home only after refusal of admission. State v. Bembry, 151 Ohio St. 3d 502, 508. The knock-and-announce principle becomes relevant only after a warrant has issued, for if a warrant has not issued, a search or seizure inside the home is "presumptively unreasonable" whether or not police give notice of their presence and purpose. Payton v. New York, 445 U.S. 573, 586, 100 S.Ct. 1371, 63 L.Ed.2d 639 (1980); see also State v. Carr, 2d Dist. Montgomery No. 19121, 2002-Ohio-4201, ¶ 13.

ARGUMENT IN RELATION TO COUNT VII

The Plaintiff's argue that the Search Warrant was valid because Judge Gabbert signed it indicating that probable cause existed. Yet , this simple analysis is flawed as reliance on the search warrant only provides qualified immunity in some cases not all cases. Hale v. Kart, 396 F.3d 721, 725 (6th Cir. 2005). Officers cannot rely on a warrants if "that officer knowingly makes false statements and omissions to the judge such that but for these falsities the judge would not have issued the warrant." Yancey v. Carroll Cty., 876 F.2d 1238, 1243 (6th Cir. 1989). When examining the facts known to the Officers at the time of the warrant and viewing the evidence in the light most favorable to the injured party the court cannot determine if the officers are entitled to qualified immunity. In the case at hand, we must look at what each officer knew before the search warrant was signed.

The CI was interviewed at least three times by three Officers of the Adams County Sherriff's Office; to wit: Mike Estetp, Shawn Cooley, and Brian Newland. The first interview would have taken place when the three officers went to Heather Holly Lane for a "knock and talk." At the residence they asked the CI questions about possessing marijuana and upon locating it in her home asked her to come to the police station to give an additional statement. Thus, the Officers had at least some information when they left Heather Holly Lane. Mr. Newland had enough

knowledge to go out of his way to drive by the home of Mr. Foreman on his way to the police station.

At the police station Brian Newland conducts a second interview of the CI in which he takes notes. Newland learns that that the CI was holding the 2000+ grams of weed for Afroman and that she and/or her ex-husband had been hired to drive to pick up a lady "Joe" to bring her from the Southern United States to Adams County, Ohio. Newland also learned that Mr. Foreman was purchasing his marijuana legally at dispensaries as he traveled around the county. Newland also learned that Mr. Foreman enjoyed his weed.²⁰ Further, Mr. Foreman had cash around his house. So far nothing Newland learned indicated illegal activity until the CI said that she thought people were being held against their will. Strangely she indicates that the women named "Joe" was one of those women. This is strange as if "Joe" was a kidnapping victim, the CI would have admitted or at least have been implicated in kidnapping and human trafficking both horrible and serious crimes. Crimes more serious than the passion of a blunt. Yet, Brian Newland ate up the line of garbage that the CI fed him ignoring all the red flags. He finishes his interview by making her a Confidential Informant.

When going to type the search warrant so that he can search the home of the legendary rapper, Afroman, he learned that the Audio recorder for the second interview malfunctioned and no audio was recorded. Rather than wasting time reinterviewing her himself, Mr. Newland asked Officers Mike Estep and Shawn Cooley to conduct a third interview with the CI. What they learned did not match her story provided previously in the prior two interviews.

The third interview revealed that she was not holding weed for Afroman she had stolen it from him indicating a huge change in her story. Further, she no longer talks about a basement

²⁰ This is well known and a persona played up Afroman as part of his public image.

dungeon but a bedroom. She indicates that a female of an unknown age may have been held against her will. No mention is made of the lady "Joe" was held against her will. Thus, strange changes to her story that never made it into the search warrant. All of this was captured on the audio of the second hearing and listen to by Brian Newland in preparation of the search warrant.

Strangely none of the changes made it into the search warrant. Brian Newland knew of all the three interviews when he was preparing the search warrant. He knew of the contradictions of the CI yet none of the inconsistencies were included in the search warrant. Even Mike Estep and Shawn Cooley read the search warrant prior to Newland taking it to Judge Gabbert. They made no changes. They just assumed the information was correct even though it contradicted what they learned from the interview.

Officers cannot rely on a warrants if "that officer knowingly makes false statements and omissions to the judge such that but for these falsities the judge would not have issued the warrant." Yancey v. Carroll Cty., 876 F.2d 1238, 1243 (6th Cir. 1989). Thus, Mike Estep and Shawn Cooley both clearly made omissions because they failed to add anything they learned from the CI that contradicted or was not included in the search warrant they reviewed and gave their stamp of approval. Brian Newland bears a portion of the fault when after having heard all the contradictions made no corrections to his search warrant. Did he make a false statement? A jury could clearly conclude he did. At the minimum he omitted a significant amount of information that Judge Gabbert would have needed to know prior to issuing the warrant. Afterall, nowhere in the warrant does it say that the CI had contradicted herself or changed her story. Very important information that any Judge would like to know prior to issuing a warrant and especially a judge who believes that the United States Constitution is the blanket of freedom protecting Americans. Thus, the Officers cannot hide behind a search warrant for qualified immunity. Further, one must next look to Ohio Immunity laws.

Under Ohio law Officers are granted immunity under ORC 2744. There is no debate that the Officers of the Adams County Sheriff's Office (ACSO) would be covered by the immunity provided in ORC 2744. To proceed past the State granted immunity the Defendant would need to show that an exception in ORC 2744 applies. The Defendant would apply the exception to the immunity granted by O.R.C. Section 2744.02(B)(2) by showing that the officers acted in a negligent manner in the execution of the search warrant. Reviewing again the differences in the story of the CI between three interviews would at least rise to the level of negligence on the part of Mike Estep, Shawn Cooley and Brian Newland. Thus, with an exception that is supported by evidence in the record, the jury must decide if the Officers acted in a negligent manner.

In relation to Count VII, partial summary judgment on the counterclaim of the Defendant is not proper as there exists evidence, which must be viewed in the light most favorable to the injured party, that a jury could determine that the Officers violated the fourth amendment rights of the Defendant when searching his home.

ARGUMENT IN RELATION TO COUNTS I-VI

Even before looking counts I-VI one must take the next correct step. The issues with the search warrant aside, Officers are not just permitted to batter in your door, they must follow the procedure as outlined in ORC 2935.12. If the Officers fail to follow procedure, in this case the knock and announce statute, it deprives them of protection for the damage they cause during entry. Further, if the process failed one would start to view everything under the Ohio Immunity Statute of ORC 2744.02.

The threshold question is now is did the Officers knock and announce? No single Officer takes credit for breaching the door. A fact that is hammered home by the Plaintiff's Attorney who stated "none of the named Plaintiffs were involved in the breaking or breaching of the Defendant's doors." (Plaintiff's Motion for Partial Summary Judgment in Relation to the Defendant's

Counterclaims filed 12/5/2025, page 15) The body cam of Newland clearly shows him and another officer (who appears to be Justin Cooley) using their feet to attempt to kick in the front door prior to the breach on the side door. Newland then proceeded to the side door to aid in the breach. Officers entered somehow. Strangely out of 10+ officers present, 7 officers are Plaintiffs. That could allow a Jury to determine that at least some of the Plaintiffs were involved in aiding the breaching of the door.

Even given the fact that no officer testified during depositions to breaching the door, no knock and announcement was testified too either. Thus, a reasonable jury could conclude that the Officers did not comply with ORC 2935.12 and thus are not subject to immunity for the destruction of the doors during entry. Afterall, only the officers who breached could testify that the knock and announce rule was satisfied, yet none of the Plaintiffs have.

The Plaintiffs admit that the knock and announce rule was not followed. (Plaintiff's Motion for Partial Summary Judgment in Relation to the Defendant's Counterclaims filed 12/5/2025, page 15) Why was it not followed? As argued by the Plaintiff it was not needed or feasible because the officers knew no one was home? Id. It is not disputed that upon entry the officers found the house empty, yet that is after the breach. How would the Officer's know no one was home prior to entry? That very question changes the perspective of the search of the residence and the entry that was executed.

Brian Newland testified in his Deposition that:

Q. Do you often do search warrants for minor misdemeanor amounts of marijuana?

A. No, not for minor misdemeanor amount, no. The search warrant stated we had a possibility of an unknown quantity of marijuana and the possibility of somebody that was being held against their will. We had to act. Regardless we had a complaint to investigate and a duty to act on.

Q. So it was your duty on act on it?

A. A potential kidnapping or somebody held against their will, absolutely. (Newland Depo 64:9-22)

Thus according to the testimony of Brian Newland he was worried about a kidnapping victim not weed. (Newland Depo 64:9-22) If he knew prior to entry that no one was home why the rush? Newland indicated that speed was of the essence. Still Brian investigated the front door and did he learn that no one was home? If he did then why breach the door and go in with assault rifles and riot gear²¹? If the officers knew that no one was home, then the whole execution of the search warrant becomes even murkier and questionable than it already is. More likely is that the Officers found no one home and it is now used as a justification for failing to follow State law. Afterall, no officer will ever testify that someone could not have been out of view and, therefore, while not seeing anyone through a window might suggest no one is home, it is not a guarantee that the homeowner is not in the shower or toilet out of view. Thus, why Ohio law has the knock and announce rule. With this threshold question out of the way, the analysis will now revolve around the state immunity granted in ORC 2744.02.

COUNT I - DOOR, DOORS and TRIM

The Plaintiff argue that the door damage is not an issue because the officers, even without a knock and announce, should be granted the protections of ORC 2935.12 for the de minimis damage to the Defendant's home. It has already been covered that ORC 2935.12 was not followed and thus is applicable to the case at hand. That moves the analysis to state immunity under ORC 2744. The Defendant would apply the exception to the immunity granted by O.R.C. Section 2744.02(B)(2) and 2744.03(A)(6) by showing that the officers acted in a reckless wanton misconduct, reckless conduct and/or a negligent manner in the execution of the breach of the house. Afterall Brian Newland and another officer attempted to breach the front door by kicking

²¹ If the Officers knew no one was home and still went in assault rifles at the ready to the home of African American Adams County, Ohio resident one would ask why? Afterall, that is the stuff that was occurring in the Southern United States when Martin Luther King was alive. Such actions are scary and can easily intimidate, especially if all officers are Caucasian.

it in with their feet. Then when the officers broke the door they did it in such a way to cause the maximum amount of damage. The weakest point of a door is the doorknob not the hinges. Thus to batter on the hinge area of the door can only be negligence, stupidity or intentional destruction of property. Thus, a jury can conclude the Officers' actions fit the exception to immunity in ORC 2744.02(B)(2) and 2744.03(A)(6).

However, the Plaintiffs take it a step further and seem to indicate that the actions in breaching the door and causing damage is ok because Afroman sold the door. Strange argument because they note that Afroman signed the door and sold it only after signing it. Thus, the Officers should get a free pass because Afroman is famous and known for signing almost anything. At his concerts people line up to pay to get his signature. Women line up to have him sign their breasts. All of this clearly indicates that the authentic Afroman signature is sought after and worth some money. The Plaintiff discourages and discounts the value that the signature added to the door that was sold. Afterall, how much will you pay for a broken door? Not much if anything. Yet add an Afroman signature and the value sky rockets. The value in the door is not the door that is just the medium on which the value is put, that is the signature of Afroman. Yet, that makes this all ok.

Mr. Foreman testified in his deposition that he spent money to have the door repaired and to secure his residence after the officers searched. The only issue to focus on is what caused the door to be in a state that required its repair. What happened to or with the door after it was destroyed by the Officers is not relevant to the matter at hand. A Jury can consider all evidence both physical evidence, like receipts, and testimony evidence, like that of Mr. Foreman. With testimony presented at trial the jury could determine that Mr. Foreman suffered harm from the damage caused and award damages.

COUNT II – CLOSET DAMAGE

The Plaintiffs indicate that the damage to Mr. Foreman's closet should be considered

acceptable because he had compartments in the closet of the room in his sports room. This room is on the ground floor of the house and was searched by the officers during the execution of the search warrant. The CI had indicated that there were false walls and a hidden room or basement in the house of Mr. Foreman. (Exhibit A, Search Warrant) Yet she indicated that these false walls were in places other than the sports room. Yet the Plaintiff's again point to the fact that they can do damage while executing a search warrant. In the case at hand, they never found hidden compartments. They were looking for them and caused damage but did not find them. They found a small cabinet in a closet. It is only a significant time later during the deposition of Mr. Joseph Foreman that he tells them of small compartments in his sports room. (Foreman Depo. 33:13-22) The search warrant had issues and a jury could determine that the officers are liable for the damage if they determine that immunity does not apply.

COUNTS III AND IV – CONVERSION AND TRESPASS IN RELATION TO THE SECURITY SYSTEM

The burning question is why the security system was even touched as evidence. The Plaintiffs talk about standard procedure, yet the elephant in the room is the search warrant. The search warrant must clearly articulate the items to be searched and seized. US Const. Amend. 4. The items to be seized were in relation to weed. Only the charge of kidnapping is listed on the warrant, and nothing is stated about even looking for evidence of such. The officers clearly did not follow procedure and review the warrant to know what they were looking for.

Detective Newland typed the search warrant so he was wanting to search for marijuana. Yet in deposition Detective Newland stated that we was also looking for kidnapping victims. (Newland Depo 64:13-22) Shawn Cooley stated he was searching for marijuana, other drugs, documentation of drug sales or buys, large amounts of money, and a juvenile who was being held against her will. (Shawn Cooley Depo. 67:18-68:2, 62:19-63:3) Mike Estep was searching for

human trafficking victims or a hostage being held in a cage. (Estep Depo 27:22-25, 28:1-8, 29:7-22) Justin Cooley was looking for marijuana and a juvenile at the residence. (Justin Cooley Depo 29:17-25, 31:1-6) Shawn Grooms was looking for a kidnapping victim and narcotics. (Grooms Depo 18:24-19:7) Lisa Phillips was looking for a kidnapping victim, narcotics, and media related to human trafficking. (Phillips Depo 19:21-25, 20:1-4, 25:4-10) Randy Walters was searching for marijuana and human trafficking of some type. (Walters Depo 29:19-23) The glaring issues that arose from depositions was that the officers were looking for things outside of the search warrant.

This supported by the actions in searching the music CDs of Mr. Foreman and the actions in relation to the security system. These are not noted in the search warrant. Nor was there any evidence of dungeon, basement, or anything to support the idea that Mr. Foreman was holding women against their will, nor engaged in any practice related to human trafficking. Thus, for the officers to indicate they were searching for things outside the search warrant clearly is a violation. In fact, going outside the scope of a search warrant, absent exigent circumstances of which none exists here, would be a big issue for a criminal case. Here the actions clearly take the parties outside of the immunities they may have enjoyed under ORC 2744.02 and 2744.03(A)(6).

The elements of trespass and conversion are met and admitted to by the Plaintiff in their Motion for Partial Summary Judgment. The question is not what happened but why? The answer to that is simple. The Officers were going outside of the search warrant and attempting to find evidence that they knew of but had not articulated to the Judge. Afterall, the least important thing the officers were looking for was weed. In fact some officers believed they were searching for narcotics, a drug which is rampant in Southern Ohio and is laying waste to people in small communities. As the Officers' actions and admission could lead a jury to determine that they are not shielded by immunity they could be found liable for the damage.

COUNTS V AND VI – THE MISSING MONEY

The missing money is confounding. Strange is that during a search of the property over \$5,000 in cash was recovered. Newland counted it one time. Put it in an unsealed evidence bag and then took it to an office and locked it up. Did he ever recount it, no. No other officer counted the cash. In fact, Deputy Justin Cooley detailed out the correct procedure that was to be used for the collection of money. According to Justin Cooley, when you are collecting cash as evidence there are special evidence bags. (Justin Cooley Depo 45:17-22) These bags indicate the number of bills inside, the number of each denomination of bills, and the total amount the assorted bills add up to. Id. If the specific money bags are not available then you can use standard evidence bags. Id. However, you still record on the bag the number of each denomination of bills, the total amount the bills add up to, and etc. (Justin Cooley Depo 45:23-25, 46:1-5, 47:3-12) Justin Cooley testified that he had used this procedure for years. Id. This procedure is in place because you cannot miscount, and further, you know number and type of bills collected. Nothing can be miscounted. Even with this safety, the cash is still recounted by another officer.

Justin Cooley indicated that once the evidence was collected the officer collecting will place a completed evidence submission/intake sheet, place a copy of the report with the submission, and all of this will be deposited with the Evidence Clerk. (Justin Cooley Depo 44:1-12) This packet of evidence and paperwork is then placed in the secure evidence locker. Id. The evidence locker is locked with evidence Clerk having the only key. Id. The Evidence Clerk is responsible for retrieving materials from and for entering the evidence room²². Id.

This was not the procedure followed by Brian Newland. According to his testimony he never sealed the evidence bag, nor did he detail out the number of each denomination, or do

²² This is an issue that is very relevant to the issue of the missing cash in this case. One why was the correct procedure not followed? Yet, the bigger question is if the Evidence Clerk is to have the only key to the evidence locker, why did Brian Newland testify that he had a key to the locker? (Justin Cooley Depo 44:1-12 and Newland

anything that Deputy Justin Cooley indicated was the correct way to secure money in a search. That is odd by itself, yet when one looks to what happened with Mr. Foreman went to collect the money that was seized things get stranger.

As the opening and counting of the return of the money was filmed by Channel 9, Fox News in November of 2022 and broadcast to the American public. At that time, it was found that cash being returned was ~\$400 short.²³ Brian Newland has testified that it was a miscount. Shawn Grooms testified that missing money from a search is not common and thus concerning. (Shawn Grooms Depo 23:13-23) Yet, he cannot explain how the evidence bags were sealed when they were opened? We know now that something happened when Mr. Newland says that he did not seal the money evidence bag and when the sealed bag was opened in November 2022. Based on the testimony of Mr. Newland that he had a key and the testimony of Justin Cooley that the evidence tech had the only key a jury could determine the money had not been miscounted but stolen during the search or when Mr. Newland took the evidence to the station. Newland testified that only him and the evidence clerk had access to the money. Thus, a jury could determine that the officers, and Mr. Newland, are liable for the missing money. It is also important to note that if money was stolen then there is no immunity. There is no case that has held that government officials can steal money and have immunity for it.

COUNT VII – FRIVOLOUS CONDUCT UNDER O.R.C. 2323.51

Of the Defendant's claims, this is the strangest one to analyze as it has already been proven correct by a prior decision of the court, yet the Plaintiffs are correct in their understanding of the cause of action. In addition this had already been presented to the court and no ruling was made on it. Nor was the request of the Defendant to convert this cause of action to a Motion for hearing

²³ The exact amount is \$390 short.

ruled on. Yet the Defendant renews his argument and request to convert this cause of action to a Motion under ORC 2323.51.

Under Ohio Revised Code Section 2323.51, also known as the frivolous conduct statute, a party may seek to collect reasonable attorney fees for frivolous filings. This section provides that,

... Frivolous conduct” means either of the following:

(a) Conduct of an inmate or other party to a civil action, of an inmate who has filed an appeal of the type described in division (A)(1)(b) of this section, or of the inmate’s or other party’s counsel of record that satisfies any of the following:

(i) It obviously serves merely to harass or maliciously injure another party to the civil action or appeal or is for another improper purpose, including, but not limited to, causing unnecessary delay or a needless increase in the cost of litigation.

(ii) It is not warranted under existing law, cannot be supported by a good faith argument for an extension, modification, or reversal of existing law, or cannot be supported by a good faith argument for the establishment of new law. ... O.R.C. 2323.51(A)(2)(a)(i-ii).

Thus, if a Defendant can show that the conduct of another party was frivolous they can collect reasonable attorney fees. While pleading early as a Counterclaim, it but put the Plaintiff on notice that their stance was not supported by law and that the Defendants would seek to collect some of the costs of the litigation. The frivolous nature of the claims has already been proven.

This is not the first round of Motions seeking to dismiss claims. Previously a Motion to Dismiss and Strike had been filed. This honorable court issued a Decision and Entry Denying in Part and Granting in Part Defendants’ Motion to Dismiss on October 10, 2023. In that Decision, the Court dismissed Count 1 (Violation of Ohio Revised Code Chapter 2741 – Unauthorized Use of Individual’s Persona) and Count 2 (Invasion of Privacy by Misappropriation – Restatement of Torts Paragraph 652(C) (1977), by finding that the Plaintiffs could state no set of facts that would prove their claims. The Defendant was correct in regard to claims 1 and 2 of the Plaintiffs complaint when stating that there was no basis in existing law for the claims. Thus while pleading early, and treating it as a cause of action in the counterclaim, the Defendant was not wrong in his

assertion that the Plaintiffs had no basis for their claims.

The Plaintiff is correct as the Frivolous conduct statute does not create a private cause of action; it is rather a Statute that must be invoked by the aggrieved party through a motion to the court. The same action could be accomplished through a Motion under Ohio Civil Rule 11. In both cases the immunities provided under Ohio law do not apply to frivolous conduct. However, the Plaintiff does not articulate the timing of the courts prior Decision and the filing of the Answer and Counterclaim.

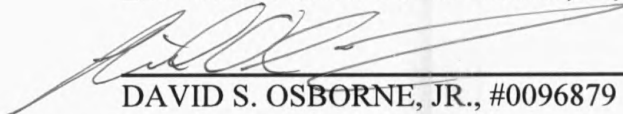
This court entered a Decision and Entry Denying in Part and Granting in Part Defendants' Motion to Dismiss on October 10, 2023, which indicated that two claims of the Plaintiff were clearly dismissed with no set of facts to prove them. The Defendant filed his Answer and Counterclaim on October 27, 2023, a total of 17 days after the Decision was filed. Thus, the frivolous filings were already proved. Rather than file a motion with the court, it was stated as a claim. Thus, the Defendant would seek to have the court convert this Counterclaim to a Motion for sanctions under Ohio Revised Code Section 2323.51 rather than a Counterclaim against the Plaintiffs.

CONCLUSION

There exist significant issues of material fact between the parties and only a jury can make the final determination. Thus, the Defendant prays this court will deny the Plaintiff's Motion for Partial Summary Judgment in relation to the Counterclaims and allow this matter to proceed to trial.

Respectfully submitted,

Law Offices of Dr. David Osborne, Jr., LLC



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Attorney for Joseph Edgar Foreman

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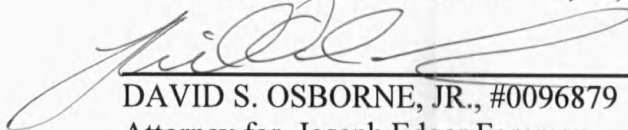
TO THE COURT

The undersigned hereby certifies that used the Artificial Intelligence program ChatGPT 5 Pro.

This program has been used to summarize and find specific instances of statements by the person being deposed. Further, AI was used to create the timeline of events and to correct some grammar and spelling mistakes. No legal research was completed using the AI program.

Respectfully submitted,

Law Offices of Dr. David Osborne, Jr., LLC



DAVID S. OSBORNE, JR., #0096879
Attorney for Joseph Edgar Foreman

PROOF OF SERVICE

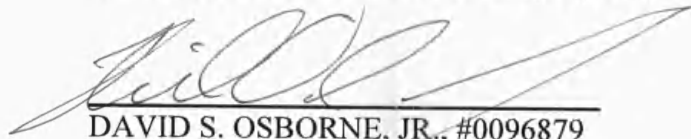
The undersigned hereby certifies that a true copy of the foregoing was served upon to following:

1. **Robert A. Klinger**, Robert A. Klinger Co., LPA, 895 Central Ave. Ste. 300, Cincinnati, Ohio 45202;
2. **Arthur West**, 120 State Ave. NE, #1497, Olympia, WA 98501;
3. **David J. Caray**, ACLU of Ohio Foundation, 4506 Chester Ave., Cleveland, Ohio 44102;
4. **Amy R. Gilbert**, ACLU of Ohio Foundation, 4506 Chester Ave., Cleveland, Ohio 44102;
5. **Freda J. Levenson**, ACLU of Ohio Foundation, 4506 Chester Ave., Cleveland, Ohio 44102;
6. **Vera Eidelman**, American Civil Liberties Union Foundation, 125 Broad Street, 18th Floor, New York, NY 10004;
7. **David Moser**, Fishel Downey Albrecht and Riepenhoff, LLP, 7775 Walton Parkway, Suite 200, New Albany, Ohio 43054.

by regular U.S. mail, hand delivery, email, fax, by dropping off in the Attorney box at Adams

County Court, or email this _16_ day of _January_, 2026.

Law Offices of Dr. David Osborne, Jr., LLC

A handwritten signature in dark ink, appearing to read "David S. Osborne, Jr.", written over a horizontal line.

DAVID S. OSBORNE, JR., #0096879
Attorney for Joseph Edgar Foreman

A second handwritten signature in dark ink, identical to the one above, written below the printed name and title.

ADAMS COUNTY COURT

2022 AUG 23 PM 2:30

ADAMS COUNTY COURT
ADAMS COUNTY, OHIO



STATE OF OHIO
COUNTY OF ADAMS, ss:

CASE NO.
SEARCH WARRANT

To any law enforcement officer of Adams County, Ohio;

2022-SW-#23

WHEREAS, there has been filed before me an affidavit demonstrating probable cause for a search to be made of:

1299 Russellville Road, Winchester, Adams County, Ohio 45697, being a single-family, two-story home with white siding, having green shutters and a green metal roof, with a covered front porch and a gravel driveway, having a large white metal pole barn style structure with a green metal roof on the north side of the primary residence, with a wooden fence surrounding the property and being the current residence of Joseph E. Foreman to include any and all other outbuildings, storage containers, curtilage, vehicles and / or persons located on the property.

namely:

Items of evidence, including but not limited to unknown quantity of marijuana, marijuana derivatives, any and all other drugs of abuse, drug paraphernalia including scales, packaging materials, and paraphernalia used for the sale and administration of said drugs, money, obtained from the sale of illegal drugs, documentation regarding the sale of illegal drugs, as well as weapons used for the protection of the above

which are

being concealed in violation of ORC 2925.11; Possession of Drugs, ORC 2925.03; Trafficking in Drugs, ORC 2925.01; Kidnapping

YOU ARE HEREBY COMMANDED TO search, by any reasonable means necessary, the above named person and/or place for the property described, serving this warrant and making the search during the daytime or night time within 3 days from the issuance of this order, and if the property be found there to seize it, leaving a copy of this warrant and a receipt for the property taken and prepare a written inventory of the property seized and return this warrant to the Adams County Court of Adams County, Ohio, upon execution. Furthermore, this search warrant may be executed without the statutory precondition for a nonconsensual entry.

Given under my hand this 21st day of August, 2022.

JUDGE

Thy & Smith

6:55 p.m.

ADAMS COUNTY COURT
AUG 23 PM 2:31

ADAMS COUNTY COURT
ADAMS COUNTY, OHIO

STATE OF OHIO
COUNTY OF ADAMS, ss:

CASE NO.
AFFIDAVIT FOR SEARCH WARRANT

The undersigned, being duly sworn, stated he has reason to believe there is now being concealed certain contraband, evidence, or property **namely:**

Items of evidence, including but not limited to unknown quantity of marijuana, marijuana derivatives, any and all other drugs of abuse, drug paraphernalia including scales, packaging materials, and paraphernalia used for the sale and administration of said drugs, money, obtained from the sale of illegal drugs, documentation regarding the sale of illegal drugs, as well as weapons used for the protection of the above

which are

being concealed in violation of ORC 2925.11; Possession of Drugs, ORC 2925.03 Trafficking in Drugs, ORC 2925.01; Kidnapping

located at

1299 Russellville Road, Winchester, Adams County, Ohio 45697, being a single-family, two-story home with white siding, having green shutters and a green metal roof, with a covered front porch and a gravel driveway, having a large white metal pole barn style structure with a green metal roof on the north side of the primary residence, with a wooden fence surrounding the property and being the current residence of Joseph E. Foreman (referred to as "Afroman") to include any and all other outbuildings, storage containers, curtilage, vehicles and / or persons located on the property.

The facts tending to establish the foregoing grounds for the issuance of a search warrant are:

The affiant is currently employed as Detective with the Adams County Sheriff's Office, who states the following:

- 1.) Affiant states on August 21, 2022 Law Enforcement from the Adams County Sheriff's Office went to 41 Heather Hollie Lane, Winchester, Adams County, Ohio 45697 to conduct a "knock and talk" with resident, Confidential Informant # 1 in regard to information obtained on suspected drug activity. Confidential Informant #1 consented to a search of her residence, which resulted in Law Enforcement locating four (4) colorless plastic baggies containing large amounts of green leafy vegetation. A field test was

conducted on the green leafy vegetation which did indicate the presence of Tetrahydrocannabinol (THC), the principal psychoactive constituent of cannabis (marijuana.) with a combined weight of approximately 2,131 grams, being more than one thousand grams but less than five thousand grams, a felony of the third degree. Detectives additionally located a small colorless plastic cylinder with a label stating "Afroman" and "high grade cannabis" that also contained similar green leafy substance. A field test was conducted on the green leafy substance which did indicate the presence of Tetrahydrocannabinol (THC.) Confidential Informant # 1 further stated that he / she was "holding" the marijuana for "Afroman" (Joseph Foreman.)

- 2.) Affiant further states on August 21, 2022 during conversation Confidential Informant #1 stated that she has known Joseph Foreman, AKA "Afroman," AKA "Fro" for approximately ten (10) years, where she originally started working as Joseph Foreman (Afroman's) personal assistant. Confidential Informant # 1 continued to state she routinely travelled the United States with "Afroman" to concerts and Marijuana dispensaries where they would obtain large amounts of marijuana to be transported back to Adams County, Ohio. Confidential Informant # 1 further stated she and Afroman have been intimate for approximately eight (8) years where he / she, being Confidential Informant # 1 visited the "farm house" being "Afroman's" (Joseph Foreman's) residence, 1299 Russellville Road, Winchester, Adams County, Ohio 45697. Confidential Informant # 1 stated during these last eight (8) years she has consistently observed large amounts of money and marijuana at "Afroman's" residence. Confidential Informant #1 further stated "Afroman" has a basement, referred to as "the dungeon" in which he, being Afroman (Joseph Foreman) keeps women locked in, forcing them to urinate and defecate in a bucket as punishment for upsetting or disobeying him.

Confidential Informant # 1 further stated that she was last at "Afroman's" (Joseph Foreman) residence approximately one month ago where she, being Confidential Informant # 1 observed a female known as "Joe" exiting the dungeon. Confidential Informant # 1 described "Joe" as a short, dark-haired woman, possibly Hispanic. Confidential Informant # 1 also indicated that she believed "Joe" is from California, although "Afroman" paid Confidential Informants estranged husband to pick up "Joe" in Mississippi.

- 3.) Affiant further states Confidential Informant #1 indicated that "Afroman" (Joseph Foreman) utilized armed security at all times, stating "he has some old rapper from LA doing it." Confidential Informant #1 stated that there is a "guard shack" on the west side of the residence, where security cameras are monitored.
- 4.) Affiant further states Confidential Informant # 1 accurately described the exterior of the property at 1299 Russellville Road, Winchester, Adams County, Ohio 45697, further stating that the entire upstairs of the primary residence is "Afroman's" bedroom. Confidential Informant # 1 further indicated that "Afroman" has multiple "mini garages" which are utilized to store marijuana and "Afroman's" brand of malt-liquor, "Cold fro t-5."

- 5.) Affiant further states Confidential Informant # 1 indicated that "Afroman" (Joe Foreman) has a large metal building behind the residence where he stores cars, Confidential Informant # 1 stated she and her husband built a "fitness room" of the building which has a false wall. Confidential Informant # 1 stated "Afroman" uses the false wall room to store marijuana and money.
- 6.) Affiant states Confidential Informant indicated that she has not been to 1299 Russellville Road, Winchester, Adams County, Ohio 45697 in approximately one month due to "Afroman" (Joseph Foreman) releasing a video, depicting him urinating on Tasha Chamblin's head. Confidential Informant # 1 indicated before that incident, she would visit the residence on a daily basis and did so for approximately eight (8) years. Confidential Informant # 1 further stated that she would observe the aforementioned activity at the residence every visit.
- 7.) Affiant further requests that a search warrant be granted for 1299 Russellville Road, Winchester, Adams County, Ohio 45697 to further investigate the aforementioned activity described in this affidavit.

Date: 08/21/2022

SGT. + [Signature]

SGT Brian Newland,
Adams County Sheriff's Office

Sworn to before me and subscribed in my presence this 21st day of August, 2022.

[Signature]
JUDGE

6:55 p.m.

ADAMS COUNTY COURT

RETURN OF SEARCH WARRANT

22 AUG 23 PM 2:31

EXHIBIT

B

2 pages

I, SGT. BRIAN NEWLAND, the officer taking property hereunder, received the attached search warrant and executed it as follows:

On this 21 day of AUGUST, 2022 at 8:11 o'clock pm/am. I searched _____
(location) 1299 RUSSELLVILLE RD, WINCHESTER, ADAMS COUNTY, OH 45697
described in the warrant and left a copy of the warrant with RESIDENCE
together with a receipt for the items seized.

The following is an inventory of the property taken under the warrant:

\$4390.00 LOCATED IN JACKET POCKET IN UPSTAIRS BEDROOM
\$641.00 LOCATED ON SHELF IN OFFICE OFF OF LIVING ROOM AREA
COLORLESS GLASS JAR W/ WHITE LID CONTAINING GREEN LEAFY VEGETATION
(2) TWO SETS OF DIGITAL SCALES, BLACK CONTAINER W/ MISC. DRUG PARA.
GLASS MARIJUANA WAX(DAB) SMOKING PIPE
(ATTACHED CONTINUATION PAGES IF NECESSARY) NO. ATTACHED: 1 of 2

Inventory made in the presence of: Printed Name: SGT. BRIAN NEWLAND
Signature: SGT. [Signature]

This inventory is a true and accurate account of all property taken by me on the warrant.

Sgt. [Signature]

Returned, sworn to, and subscribed in my presence this 23rd day of AUGUST, 2022

Penny S. Baldwin
CLERK

ADAMS COUNTY CLERK

RETURN OF SEARCH WARRANT

2022 AUG 23 PM 2:31
I, SGT. BRIAN NEWLAND, the officer taking property hereunder, received the attached search warrant and executed it as follows:

Penny S. Baldwin
CLERK

On this 21 day of AUGUST, 2022 at 8:11 o'clock pm/am. I searched _____
(location) 12919 RUSSELLVILLE RD, WINCHESTER, ADAMS COUNTY, OH 45697
described in the warrant and left a copy of the warrant with RESIDENCE
together with a receipt for the items seized.

The following is an inventory of the property taken under the warrant:

COLORLESS (LIDLESS) PLASTIC JAR CONTAINING THC WAX (DAB)
COLORLESS PLASTIC JAR W/ WHITE LID CONTAINING THC WAX (DAB)
GRINDER

(ATTACHED CONTINUATION PAGES IF NECESSARY) NO. ATTACHED: 2 of 2

Inventory made in the presence of: Printed Name: SGT. BRIAN NEWLAND
Signature: SGT. [Signature]

This inventory is a true and accurate account of all property taken by me on the warrant.

Sgt. [Signature]

Returned, sworn to, and subscribed in my presence this 23rd day of August, 2022

Penny S. Baldwin
CLERK